

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE JOINT |) | |
| APPLICATION OF QWEST CORPORATION |) | CASE NO. QWE-T-04-21 |
| AND SOUTHWESTERN BELL |) | |
| COMMUNICATIONS SERVICES aka SBC |) | |
| LONG DISTANCE FOR APPROVAL OF THE |) | |
| ADOPTION OF THE SGAT AGREEMENT |) | |
| FOR THE STATE OF IDAHO PURSUANT TO |) | |
| 47 U.S.C. § 252(e). |) | |
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| IN THE MATTER OF THE JOINT |) | |
| APPLICATION OF QWEST CORPORATION |) | CASE NO. QWE-T-04-22 |
| AND TALK AMERICA, INC. FOR APPROVAL |) | |
| OF THE ADOPTION OF THE SGAT |) | |
| AGREEMENT FOR THE STATE OF IDAHO |) | ORDER NO. 29594 |
| PURSUANT TO 47 U.S.C. § 252(e). |) | |

In this case the Commission is asked to approve two agreements adopting Qwest Corporation's Statement of Generally Available Terms (SGAT). In this Order the Commission approves the Joint Applications.

BACKGROUND

Under the provision of the federal Telecommunications Act of 1996, interconnection agreements must be submitted to the Commission for approval. 47 U.S.C. § 252(e)(1). The Commission may reject an agreement adopted by negotiations only if it finds that the agreement: (1) discriminates against a telecommunications carrier not a party to the agreement; or (2) implementation of the agreement is not consistent with the public interest, convenience and necessity. 47 U.S.C. § 252(e)(2)(A). As the Commission noted in Order No. 28427, companies voluntarily entering into interconnection agreements "may negotiate terms, prices and conditions that do not comply with either the FCC rules or with the provision of Section 251(b) or(c)." Order No. 28427 at 11 (emphasis in original). This comports with the FCC's statement that "a state commission shall have authority to approve an interconnection agreement adopted by negotiation even if the terms of the agreement do not comply with the requirements of [Part 51]." 47 C.F.R. § 51.3.

THE CURRENT APPLICATION

In the Applications the parties request that the Commission approve the adoption of the two following SGAT agreements:

1. Qwest Corporation and Southwestern Bell Services aka SBC Long Distance (Case No. QWE-T-04-21). This is a Joint Application for approval of the Agreement to adopt Qwest's SGAT submitted on August 27, 2004.

2. Qwest Corporation and Talk America Inc. (Case No. QWE-T-04-22). This is a Joint Application for approval of the Agreement to adopt Qwest's SGAT submitted on August 27, 2004.

STAFF RECOMMENDATION

The Staff has reviewed the Applications and did not find any terms or conditions to be discriminatory or contrary to the public interest. Staff believes that the agreements are consistent with the pro-competitive policies of this Commission, the Idaho Legislature, and the federal Telecommunications Act. Accordingly, Staff believes that both agreements merit the Commission's approval.

COMMISSION DECISION

Under the terms of the Telecommunications Act, interconnection agreements must be submitted to the Commission for approval. 47 U.S.C. § 252(e)(1). The Commission's review is limited, however. The Commission may reject an agreement adopted by negotiation only if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement or implementation of the agreement is not consistent with the public interest, convenience and necessity. *Id.* Based upon our review of the Applications and the Staff's recommendation the Commission finds that the agreements are consistent with the public interest, convenience and necessity and do not discriminate. Therefore, the Commission finds that the agreements should be approved. However, approval of these agreements does not negate the responsibility of either of the parties to these agreements to obtain a Certificate of Public Convenience and Necessity if they are offering local exchange services or to comply with *Idaho Code* §§ 62-604 and 62-606 if they are providing other non-basic local telecommunications services as defined by *Idaho Code* § 62-603.


ORDER

IT IS HEREBY ORDERED that the agreement adopting the SGAT between Qwest Corporation and Southwestern Bell Services aka SBC Long Distance, Case No. QWE-T-04-21, is approved.

IT IS FURTHER ORDERED that the agreement adopting the SGAT between Qwest Corporation and Talk America Inc., Case No. QWE-T-04-22, is approved.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) issued in this Case No. QWE-T-04-21 and QWE-T-04-22 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order issued in this Case No. QWE-T-04-21 and QWE-T-04-22. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* §§ 61-626 and 62-619.

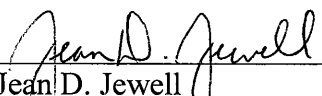
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 14th day of September 2004.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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